

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
Rules and Regulations)	CC Docket No. 02-278
Implementing the Telephone)	
Consumer Protection Act)	
of 1991)	
_____)	

**REPLY COMMENTS OF ROBERT BIGGERSTAFF TO THE REPLY COMMENTS OF
SOUNDBITE COMMUNICATIONS**

Robert Biggerstaff hereby submits these reply comments in timely opposition to the Petition of Soundbite Communications, Inc., (“Petitioner”) for a declaratory ruling regarding “confirmation” text messages, pursuant to the Commission’s Public Notice DA 12-511.

Soundbite’s own reply comments show that Soundbite still doesn’t get it.

First, there is no “grace period” to comply with a DNC request, despite Soundbite continuing to assert it. Thirty days is the *outside* limit by which requests must be processed. The Commission requires callers to comply with a DNC requests sooner where it can be done in a shorter period of time. “[T]elemarketers with the capability to honor such company-specific do-not-call requests in less than thirty days must do so.” 2003 R&O at ¶94. “[T]he Commission’s rules require that entities must record company specific do-not-call requests and place the subscriber’s telephone number on the do-not-call list at the time the request is made.” *Id.* When a STOP message is received, that is a DNC request and Soundbite can immediately stop sending unwanted messages, but it insists on sending a message after it has received and processed that DNC request.

In the early days of dialers, 8 inch floppy disks holding lists of phone numbers stored about 200K of information, or 20,000 phone numbers. That provided a practical limit on their dialing capacity. Dialers that generated phone numbers rather than loading them from a floppy had the

ability to dial for days on end without stopping for new lists of numbers. That capacity to run for days unattended by any human interaction, was the evil sought to be addressed.

Today, the entire list of every phone number in North America can fit on a single flash drive and be loaded into a dialer. This makes modern computer-interfaced dialers (including those that send text messages to cell phones without human intervention on each call) the equivalent in capacity — and injury — to the autodialers that Senator Hollings identified as telephone terrorism when introducing the TCPA in 1991. The Commission was correct in declaring computer devices that dial numbers from a list (including those sending text messages), as falling within the ambit of the TCPA.

Finally, quantity does not equate to quality. The mere fact that a dozen corporations think invading the privacy of cell phone users is a good idea does not make it so. STOP means stop. Period.

For the foregoing reasons, the Petition should be DENIED.